

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT CINCINNATI**

RYAN D. HOBBS,

Plaintiff,

:

Case No. 1:17-cv-441

- vs -

District Judge Michael R. Barrett

Magistrate Judge Michael R. Merz

DEREK FAULKNER, et al.,

Defendants.

:

REPORT AND RECOMMENDATIONS

This case is before the Court on Plaintiff's Motion To Enjoin Defendants from Further Illegal Activity while on Appeal (ECF No. 149). Plaintiff seeks to compel Defendants to comply with the Ohio Public Records Act, Ohio Revised Code § 149.43, and with their asserted duty under *Brady v. Maryland*, 373 U.S. 83 (1963), to turn over to him now exculpatory evidence which he alleges should have been turned over to his defense counsel twelve years ago.

On March 29, 2019, District Judge Barrett entered final judgment dismissing this case with prejudice (ECF No. 75, 76). Plaintiff appealed from that judgment and the appeal remains pending before the United States Court of Appeal for the Sixth Circuit in their Case No. 19-3303. The relief Plaintiff seeks in this Motion is at the heart of the relief he sought in the Complaint in this case. By dismissing his case with prejudice, this Court has determined he is not entitled to that relief. Presumably a principal claim he has made on appeal is that this Court was in error in not entertaining his claims.

Because this issue is at the heart of the pending appeal and is not an ancillary sanctions matter as Plaintiff asserts, this Court has no jurisdiction to entertain the Motion while the appeal is pending. On that basis, the Motion should be denied.

June 5, 2020.

s/ Michael R. Merz
United States Magistrate Judge

NOTICE REGARDING OBJECTIONS

Pursuant to Fed. R. Civ. P. 72(b), any party may serve and file specific, written objections to the proposed findings and recommendations within fourteen days after being served with this Report and Recommendations. Because this document is being served by mail, three days are added under Fed.R.Civ.P. 6. Such objections shall specify the portions of the Report objected to and shall be accompanied by a memorandum of law in support of the objections. A party may respond to another party's objections within fourteen days after being served with a copy thereof. Failure to make objections in accordance with this procedure may forfeit rights on appeal.